

**FEDERAL PUBLIC DEFENDER
DISTRICT OF NEW JERSEY**

972 BROAD STREET
NEWARK, NEW JERSEY 07102

(973) 645-6347 Telephone
(973) 645-3101 Facsimile
(973) 297-4807 Facsimile

RICHARD COUGHLIN
FEDERAL PUBLIC DEFENDER

CHESTER M. KELLER
FIRST ASSISTANT

June 23, 2009

Honorable Katharine S. Hayden
District Court Judge
District of New Jersey
Federal Post Office and Courthouse
Newark, NJ 07101

Re: U.S. v. Mataio Temoai
Dkt. No. 09-00005

Dear Judge Hayden:

I am writing to request an adjournment of sentence. Currently, the hearing is schedule for July 9, 2009 at 10:00 a.m..

To give the Court some background, a Presentence Report was finalized on March 13, 2009. With respect to the Sentencing Guidelines, Mr. Temoai objected to Probation's two-point reduction for the defendant's minor role in the offense, and asked Probation to reduce the offense level by four-points. PSR addendum at p.17. The Government's only response was to support Probation's determination of a two-point reduction. Id. The Government did not object Probation's guideline analysis, including a safety valve adjustment under U.S.S.G. §§ 2D1.1 (b)(11); 5C1.2. See PSR ¶ 31.

Today, I learned that Government intends on, at this late date, opposing safety valve, subjecting Mr. Temoai to a ten-year mandatory minimum. To date, I have been given no specifics regarding why the Government, by Lakshmi Herman, has made this decision. I was told that a sentencing memorandum which explains Ms. Herman's reasoning is forthcoming.

I will be out of the office on vacation next week, and will not have enough time to respond to the Government's sentencing memorandum in a timely fashion prior to the court date of July 9, 2009. Therefore, Mr. Temoai requests an adjournment of sentencing. Ms. Herman consents to an adjournment of the sentencing.

Respectfully Submitted,

S/: Peter M. Carter
Peter M. Carter

800-840 Cooper Street, Ste. 350, Camden, New Jersey 08102 (856) 757-5341

22 South Clinton Avenue, Station Plaza #4, 4th Floor, Trenton, New Jersey 08609 (609) 989-2160

* Request GRANTED
Sentencing is scheduled
for 7/27/09 at 10:00 a.m.
SO ORDERED
6/24/09
Katharine S. Hayden, J.S.D.